Cumulative Table of Cases Connecticut Appellate Reports Volume 181

(Replaces Prior Cumulative Table)

	903 151
defendant on theory of liability not alleged in complaint; whether complaint sufficiently alleged that plaintiff initiated summary process action for lapse of time; claim that court improperly concluded that subject lease had terminated for lapse of time; whether trial court's finding that term of lease had expired was	
clearly erroneous.	375
False arrest; malicious prosecution; reviewability of claims of fraud raised for first time on appeal; failure to raise claims before trial court in motion to open; whether failure to have motion to open verified by oath as required by applicable statute (§ 52-212) was fatal to fraud claims.	
	248
Foreclosure; claim that substitute plaintiff failed to demonstrate that it had standing to foreclose because it did not own note and note owner did not authorize substitute plaintiff to foreclose in its own name; claim that trial court improperly admitted hearsay testimony regarding contents of business records that were not in evidence; harmless error; whether trial court correctly concluded that substitute plaintiff satisfied its burden of proof pursuant to mortgage deed to establish that plaintiff complied with contractual notification requirements; whether trial court	
erred by applying doctrine of substantial compliance and concluding that plaintiff had substantially complied with notice requirements of mortgage deed when it sent default letter to defendant property owners by certified mail; claim that statutory condition precedent to action failed because substitute plaintiff failed to introduce into evidence certified mail receipt confirming that certain notice required by statute (§ 8-265ee [a]) was actually delivered by certified mail.	
	159
Administrative appeal; whether trial court improperly dismissed administrative appeal because plaintiff failed to name in administrative citation agency that rendered final decision challenged in appeal; whether dismissal of administrative appeal was proper where plaintiff failed to serve agency that rendered final decision challenged in appeal.	
	280
Summary process; claim that appeal was moot because defendant had been evicted from and no longer was in possession of property; whether defendant demonstrated impairment of ability to seek writ of restoration; whether trial court abused its discretion in denying motion to open default judgment; whether defendant provided sufficient information to satisfy statutory (§ 52-212 [a]) standard for opening default judgment by showing that good defense existed at time default judgment was rendered and that defense was not raised by reason of mistake, accident or other reasonable cause; whether trial court's findings that defendant had engaged in purely dilatory delays and that no reasonable cause existed for defendant's failure to appear for trial with counsel were clearly erroneous.	
Brown v . Commissioner of Correction (Memorandum Decision)	901 637

ness where plaintiff had been transferred from facility at which defendants were employed; whether allegations satisfied capable of repetition, yet evading review exception to mootness doctrine.	
Cator v. Commissioner of Correction	167
Charles Schwab & Co. v . John F. Embersits Family Trust (Memorandum Decision)	901
Chioffi v. Martin. Breach of fiduciary duty; whether trial court properly found that defendant breached provision of partnership agreement governing distribution of revenues; whether trial court improperly concluded that defendant breached partnership agreement when he assigned corporate accounts receivable and works in progress to new law firm he had formed; claim that trial court abused its discretion when it ordered direct payment from defendant to plaintiff rather than reduction in defendant's capital account; whether award of attorney's fees had to be vacated; whether trial court improperly failed to conclude that defendant breached fiduciary duty to plaintiff; claim that trial court abused its discretion in its method of calculating damages; claim that trial court committed clear error or abused its discretion in finding that plaintiff waived claim for accounting.	111
Desmond v . Yale-New Haven Hospital, Inc	201
Statutory theft; motion to strike; reviewability of claim that trial court improperly determined that counts of substitute complaint were barred by exclusivity provision of Workers' Compensation Act (§ 31-275 et seq.); whether trial court improperly denied request for leave to amend substitute complaint to add claim for retaliatory discrimination pursuant to statute (§ 31-290a); whether trial court considered proper pleading when it denied plaintiff's request for leave to amend.	
First Data Merchant Services v. People's Power & Gas, LLC (Memorandum Decision)	902
GMAC Mortgage, LLC v. Demelis	101
its discretion by denying motion to dismiss and motion for articulation; whether court order, which stated that failure to comply would result in dismissal, was self-executing; whether, in event of noncompliance with court order, further action of court was still required to render judgment of dismissal; whether court's decision denying motion to dismiss was consistent with policy preference to bring about trial on merits; whether trial court properly exercised discretion in favor of resolving case on merits; whether delay in resolution of case was attributed solely to original plaintiff; reviewability of claim that trial court abused its discretion by denying motion for articulation when defendant failed to file motion for review pursuant to applicable rule of practice (§ 66-7).	
Gainey v. Commissioner of Correction	377
Henderson v. Commissioner of Correction. Habeas corpus; whether habeas court abused its discretion in denying petition for certification to appeal; claim that habeas court erroneously determined that by virtue of petitioner's guilty plea, he waived pretrial claims of ineffective assistance of counsel and claims of structural error related to right of self-representation; whether guilty plea was made knowingly and voluntarily; argument that claims related to self-representation and habeas court's refusal to remove trial counsel were not subject to waiver rule.	778

Hirschfeld v. Machinist	309
Dissolution of marriage; whether trial court improperly failed to find defendant in contempt when it denied in part motion for order regarding division of defendant's interest in various investments and limited partnerships; whether trial court erred by not finding defendant in contempt for underpaying alimony for certain year; whether trial court erred in determining that two provisions in separation agreement were ambiguous and considering extrinsic evidence when it denied motion for order concerning defendant's alleged underpayment of alimony; whether trial court abused its discretion in failing to award attorney's fees to plaintiff on any of her motions.	
In re Athena C	803
Termination of parental rights; claim that trial court improperly determined termination of parental rights was in best interest of child based on comparison of relationship that foster parents had with child and stability of home of foster parents with that of biological parents; whether trial court found by clear and convincing evidence adjudicative ground for termination was met before making dispositional finding; whether trial court was statutorily required in dispositional phase to consider child's bond with foster parents; whether trial court made reference to relative comfort of child's recognized home or comparison of parenting abilities or level of care received by child from respondent father and foster parents; whether trial court improperly made determination as to permanent placement for child; claim that trial court abused its discretion in declining to transfer guardianship of child to maternal grandmother as alternative to terminating respondent father's parental rights; whether trial court ignored child's close relationship with grandmother or certain past deficiencies of foster parents; whether trial court considered all evidence and properly relied on relationship between child and foster parents to decide whether immediately transfer-	
ring guardianship to child's grandmother would be in child's best interest.	
In re Mariana A	415
Termination of parental rights; whether trial court improperly concluded that petitioner, Commissioner of Children and Families, failed to prove that respondent mother had failed to achieve such degree of rehabilitation as would encourage belief that within reasonable time, considering age and needs of child, mother could assume responsible position in life of child; whether petitioner failed to prove that respondent father had abandoned child because he failed to maintain reasonable degree of interest, concern or responsibility as to her welfare; whether trial court's finding that Department of Children and Families had acknowledged mother's successful completion of domestic violence program was clearly erroneous.	
Jepsen v. Camassar	492
Declaratory judgment; action seeking to declare that modifications to beach deed were invalid; claim that trial court improperly held that 2014 modification to beach deed was in full force and effect when beach deed required written vote of majority of forty-eight properties in subdivision to modify restrictions on use of beach; whether trial court improperly found that plaintiffs waived objection to insufficient notice of vote on 2014 modification by participating in hearing; whether there was sufficient evidence in record to substantiate trial court's finding that owners of majority of properties casted votes in writing that were in favor of 2014 modification; whether plaintiffs satisfied burden of proof as to slander of title claim; whether trial court abused its discretion in declining to award plaintiffs attorney's fees for defense against certain allegedly frivolous special defenses.	
Jobe v. Commissioner of Correction	236
Habeas corpus; whether habeas court properly dismissed habeas petition for lack of jurisdiction where petitioner was no longer in custody when petition was filed.	
Johnson v. Commissioner of Correction	572
Habeas corpus; whether habeas court abused its discretion in denying petition for certification to appeal; whether habeas court could have abused its discretion in denying petition for certification to appeal concerning issue that it never considered and was not raised in petition for certification to appeal.	
McMahon v. Middletown	68
Contracts; breach of implied covenant of good faith and fair dealing; reviewability of claim that trial court violated statute (§ 52-178) when it denied plaintiff's counsel permission to ask leading questions of three allegedly adverse parties on direct examination.	

Micalizzi v. Stewart	671
Negligence; whether trial court abused its discretion in denying motion for additur or to set aside verdict; claim that verdict that awarded economic but no noneconomic	
damages was inconsistent and inadequate; claim that award of zero noneconomic damages conflicted with jury interrogatories; claim that award of all claimed	
economic damages, including compensation for medical expenses for treatment	
of pain, requires award of noneconomic damages; whether jury reasonably could have found that plaintiff failed to prove by preponderance of evidence that accident caused pain; whether trial court abused its discretion in refusing to set aside	
verdict due to certain alleged procedural irregularities. Murphy v. Murphy	716
Dissolution of marriage; motion to modify; cohabitation; claim that trial court applied improper legal standard as prerequisite for finding of cohabitation and termination of alimony under applicable statute (§ 46b-86 [b]); whether trial court improperly interpreted § 46b-86 (b) to require proof by preponderance of evidence that defendant's boyfriend made financial contributions to defendant while she lived with him in his residence; whether court interpreted § 46b-86	710
(b) too narrowly; whether, pursuant to Spencer v. Spencer (177 Conn. App. 504), defendant's alleged reduction in living expenses was sufficient for court to conclude that change in defendant's financial circumstances occurred.	
Osborn v. Waterbury	239
Negligence; action for damages for personal injuries to minor child who was injured during lunchtime recess at elementary school; claim that trial court improperly found that defendants breached standard of care when it determined that one student intern and three or four staff members were insufficient to control as many as four hundred students on playground; whether expert testimony was required as to standard of care regarding number of supervisors needed to ensure safety of elementary school students on playground; whether plaintiffs were required to produce expert testimony on standard of care and to show how defendants breached standard.	
Packard v. Packard	404
Marital dissolution; reviewability of claim that trial court committed errors in making findings, conclusions and orders; failure of defendant to adequately brief legal bases for claims of error and relief sought.	
Parshall v. Josephy (Memorandum Decision)	902
Randazzo v. Sakon	80
Contracts; whether defendant was bound to reimburse plaintiff for property taxes assessed on portion of plaintiff's land that was subject to defendant's easement under terms of easement agreement that was recorded in land records; whether trial court properly applied six year statute of limitations (§ 52-576 [a]) for breach of contract actions rather than three year statute of limitations (§ 52-598a) for indemnification actions; whether defendant, by accepting easement, became contractually bound by its terms, including payment of taxes; claim that statute of frauds barred plaintiff's action because defendant did not sign easement agreement; claim that no property tax could be imposed on easement area because municipalities generally cannot assess easements separately from dominant estate; claim that defendant's commercial tenant should share in tax reimbursement to plaintiff.	205
Schimenti v. Schimenti	385
bias and prejudice arising out of her personal experience.	001
Stanley v. Taylor (Memorandum Decision)	901 703
Sexual assault in second degree; risk of injury to child; whether trial court abused its discretion in admitting video recording of victim's second forensic interview under medical treatment exception to hearsay rule; whether, as matter of law, successive forensic interviews are never reasonably pertinent to medical treatment; whether trial court applied incorrect standard when it determined that primary purpose of second forensic interview of victim was medical; whether correct standard is whether interview had medical purpose from victim's perspective; whether trial court's ruling was sustainable under medical treatment exception even though it was based on erroneous standard; whether any error by trial court was harmless.	103

State v. Andaz	228
State v. Artiaco	406
State v. Black (Memorandum Decision)	902
State v. Grajales . Assault in first degree; carrying pistol without permit; whether trial court improperly instructed jury on consciousness of guilt; whether consciousness of guilt instruction on basis of flight was proper where evidence revealed that defendant returned to place of residence and left scene of crime in open or nonfurtive manner; claim that prejudicial effect of instruction on flight outweighed probative value.	440
State v. Kukucka. Strangulation in first degree; sexual assault in third degree; assault in third degree; claim that trial court improperly failed to inquire into potential conflict of interest between defendant and defense counsel involving grievance defendant had filed against defense counsel; claim that trial court improperly denied motion to suppress out-of-court and in-court identifications of defendant made by witness to assault; whether trial court failed in duty to inquire into potential conflict of interest between defendant and defense counsel; whether defendant made claim before trial court that grievance filed against defense counsel presented conflict of interest; whether defendant demonstrated how inquiry into nature of grievance would have been materially different from inquiry that trial court conducted; whether trial court had reason to believe that conflict of interest existed or that further inquiry was necessary; whether witness' identifications of defendant were reliable; whether trial court properly found that police procedure of showing witness Facebook photo of alleged assailant forty-five minutes after assault was necessary due to exigent circumstances.	329
State v. Lamantia	648
State v. Liebenguth Breach of peace in second degree; tampering with witness; whether evidence was insufficient to support conviction of breach of peace in second degree; whether victim was likely to retaliate with immediate violence to defendant's conduct; whether defendant's racial slurs were fighting words; whether evidence adduced at trial was sufficient to support conviction of tampering with witness; whether defendant intended to induce victim to absent himself from court proceeding; whether state was required to prove, and trial court required to find, that defendant directly threatened victim in order to establish that defendant sought to induce victim not to testify.	37

State v. Mara (Memorandum Decision)	901
State v. Raynor.	760
Murder; whether trial court abused its discretion by denying motion in limine to exclude or limit scope of testimony of state's expert witness on firearm and toolmark identification; claim that because recent studies and reports established that methodology underlying firearm and toolmark identification was not sufficiently reliable, trial court improperly denied request for hearing pursuant to State v. Porter (241 Conn. 57), to determine reliability of firearm and toolmark identification; claim that trial court improperly allowed state's expert to opine that various cartridge casings recovered from crime scene were fired from particular firearm; whether trial court abused its discretion by granting motion for admission of uncharged misconduct evidence; whether trial court properly determined that probative value of uncharged misconduct evidence outweighed its prejudicial effect.	700
State v. Rivera	215
Capital felony; conspiracy to commit murder; claim that trial court abused its	210
discretion in refusing to admit into evidence certain statements made by cocon- spirator under residual exception to hearsay rule; whether trial court properly concluded that statements lacked trustworthiness and reliability that are required for admission under residual exception to hearsay rule; whether defendant dem- onstrated that allegedly improper exclusion of statements was harmful.	
State v. Stephenson	614
Failure to appear in first degree; possession of narcotics; engaging police in motor	011
vehicle pursuit; falsely reporting incident in second degree; interfering with officer; whether trial court abused its discretion when it denied defendant's request for ten minute recess to discuss with his attorney plea deal offered by court; whether evidence was sufficient to sustain conviction of possession of narcotics; whether jury reasonably could have found that defendant had exclusive control of vehicle in which narcotics were found and that he constructively possessed narcotics found in vehicle he had abandoned while fleeing from police.	
0 00 1	FOF
State v. Turner.	535
Felony murder; robbery in first degree; conspiracy to commit robbery in first degree; whether there was sufficient evidence to convict defendant of conspiracy to commit robbery in first degree; reviewability of unpreserved claim that defendant's due process right to fair trial was violated when trial court qualified police officer as expert witness and admitted cell phone coverage maps into evidence; whether trial court's qualification of police officer as expert witness and admission of cell phone coverage maps into evidence warranted reversal of judgment under plain error doctrine; claim that multiple instances of prosecutorial impropriety during closing arguments deprived defendant of due process right to fair trial; claim that prosecutor improperly referred to facts that were not in evidence or invited speculation when he urged jury to find where defendant was at particular times on basis of cell phone evidence; claim that prosecutor improperly vouched for his own credibility when he commented about defendant's having offered fake address and identification to police; claim that prosecutor's comment that defendant did things that pointed only to his guilt and not to his innocence improperly suggested to jury that defendant had burden to prove his innocence; claim that prosecutor's sarcastic remark about defendant's ability to cash checks was improper; unpreserved claim that trial court's second supplemental instruction misled jury about essential elements of robbery in first degree.	
State v. Vega	456
8	490
Murder; home invasion; burglary in first degree; attempt to commit murder; attempt to commit assault in first degree; carrying pistol without permit; whether trial court abused its discretion in admitting into evidence as spontaneous utterances under applicable provision (§ 8-3 [2]) of Connecticut Code of Evidence certain statements that witnesses had made to police; whether statements of certain witnesses were made under circumstances that negated opportunity for deliberation and fabrication; whether trial court properly determined that statements in letter from witness were inadmissible under applicable provision (§ 8-6 [4]) of Connecticut Code of Evidence on ground that they were not against witness' penal interest; unpreserved claim that trial court violated defendant's right to confrontation when it admitted into evidence certain statements that witness made during phone conversation that was overheard by police officer; unpreserved claim that trial court violated defendant's right to confrontation when it admitted	
into evidence certain statements that witness made directly to police officer;	

whether statements were testimonial in nature; whether admission of witness' statements to police officer was harmless beyond reasonable doubt. Steller v. Steller	581
Dissolution of marriage; motion for modification; claim that trial court improperly determined that defendant's earning capacity was less than his actual income; whether trial court misinterpreted or misapplied term "earning capacity" as that term is used in relevant statute (§ 46b-82); claim that trial court's findings as to defendant's gross and net earning capacities and that sale of defendant's dental practice was expected to occur in 2016 were clearly erroneous; reviewability of claim challenging trial court's findings as to plaintiff's gross annual earning capacity and net weekly earning capacity; whether trial court properly conducted "second look" de novo review of defendant's alimony obligation in accordance with parties' agreement and properly considered criteria set forth in § 46b-82 in accordance with relevant case law; claim that trial court abused its discretion by lowering defendant's life and disability insurance obligations.	561
Torrington Savings Bank Mortgage Servicing Co. v. Chance (Memorandum Decision)	903
Turner v. Commissioner of Correction	743
claim that petitioner was denied due process right to fair trial in violation of Brady v. Maryland (373 U.S. 83); whether prosecutor improperty failed to correct witness' false testimony that she did not expect to receive consideration, aside from plane fare she already had received, in exchange for testimony; whether habeas court applied incorrect legal standard when it determined that petitioner had not proven Brady violation because there was no evidence of formal plea agreement between witness and state; whether petitioner must establish existence of formal plea agreement in order to prove Brady violation.	
Wells Fargo Bank, N.A. v. Melahn	607
Foreclosure; whether trial court abused its discretion when it struck eight count amended counterclaim on grounds of legal insufficiency and failure to meet transaction test; whether trial court properly rendered judgment in favor of plaintiff after having stricken each count of amended counterclaim despite named defendant's attempt to replead four of eight stricken counts by adding conclusory sentence to each of those counts; whether appeal from striking of special defenses was from appealable final judgment.	
Windsor v. Loureiro Engineering Associates. Professional negligence; whether present action was barred by applicable seven year statute of limitations (§ 52-584a) where defendant architects had been retained to produce report regarding structural soundness of existing building and, more than ten years later, auditorium roof suffered partial collapse; claim that analysis provided by defendants in report was never substantially completed because they failed to inform plaintiff about defect in auditorium roof; whether defendants failed to satisfy burden to demonstrate that action was commenced outside limitation period; whether date of substantial completion under § 52-584a was date of report when report did not itself require or effect physical alteration of real property and there was no readily discernible date of substantial completion of such improvement to real property; claim that triable issue of fact existed with respect to substantial completion.	356